

Assembly Bill No. 308

Passed the Assembly April 10, 2003

Chief Clerk of the Assembly

Passed the Senate June 16, 2003

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 699.510 of the Code of Civil Procedure, relating to money judgments.

LEGISLATIVE COUNSEL'S DIGEST

AB 308, Montanez. Money judgments: writs of execution.

Existing law governs the procedures by which a court clerk, after entry of a money judgment, may issue a writ of execution upon application of the judgment creditor.

This bill would require the court clerk to give priority to the application and issuance of writs of execution for child support and spousal support orders.

The people of the State of California do enact as follows:

SECTION 1. Section 699.510 of the Code of Civil Procedure is amended to read:

699.510. (a) Subject to subdivision (b), after entry of a money judgment, a writ of execution shall be issued by the clerk of the court upon application of the judgment creditor and shall be directed to the levying officer in the county where the levy is to be made and to any registered process server. The clerk of the court shall give priority to the application for, and issuance of, writs of execution on orders or judgments for child support and spousal support. A separate writ shall be issued for each county where a levy is to be made. Writs may be issued successively until the money judgment is satisfied, except that a new writ may not be issued for a county until the expiration of 180 days after the issuance of a prior writ for that county unless the prior writ is first returned.

(b) If the judgment creditor seeks a writ of execution to enforce a judgment made, entered, or enforceable pursuant to the Family Code, in addition to the requirements of this article, the judgment creditor shall satisfy the requirements of any applicable provisions of the Family Code.

(c) (1) The writ of execution shall be issued in the name of the judgment debtor as listed on the judgment and may include the additional name or names by which the judgment debtor is known



as set forth in the affidavit of identity, as defined in Section 680.135, filed by the judgment creditor with the application for issuance of the writ of execution. Prior to the clerk of the court issuing a writ of execution containing any additional name or names by which the judgment debtor is known that are not listed on the judgment, the court shall approve the affidavit of identity. If the court determines, without a hearing or a notice, that the affidavit of identity states sufficient facts upon which the judgment creditor has identified the additional names of the judgment debtor, the court shall authorize the issuance of the writ of execution with the additional name or names.

(2) In any case where the writ of execution lists any name other than that listed on the judgment, the person in possession or control of the levied property, if other than the judgment debtor, shall not pay to the levying officer the amount or deliver the property being levied upon until being notified to do so by the levying officer. The levying officer may not require the person, if other than the judgment debtor, in possession or control of the levied property to pay the amount or deliver the property levied upon until the expiration of 15 days after service of notice of levy.

(3) If a person who is not the judgment debtor has property erroneously subject to an enforcement of judgment proceeding based upon an affidavit of identity, the person shall be entitled to the recovery of reasonable attorney's fees and costs from the judgment creditor incurred in releasing the person's property from a writ of execution, in addition to any other damages or penalties to which an aggrieved person may be entitled to by law, including the provisions of Division 4 (commencing with Section 720.010).



Approved _____, 2003

Governor

